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8 Casualty Company

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

12 AIG PROPERTY CASUALTY
COMPANY.

Plaintiff.

V

15 WILLIAM H. COSBY, JR. and
16 JANICE DICKINSON.

Defendants.

Case No. 2:15-cv-04842-BRO-RAO

**DECLARATION OF JAMES P.
WAGONER IN SUPPORT OF AIG
PROPERTY CASUALTY
COMPANY'S EX PARTE
APPLICATION FOR PROTECTIVE
ORDER**

Judge: Hon. Beverly Reid O'Connell

Trial Date: TBD
Courtroom: 14

1 I, JAMES P. WAGONER, declare:

2 1. I am an attorney at law, licensed to practice law in the State of California
 3 and before this Court. I am a member of the law firm of McCormick Barstow Sheppard
 4 Wayte & Carruth L.L.P. (“McCormick Barstow”), attorneys of record for AIG Property
 5 Casualty Company (“AIG Property”) in this action. The facts herein are known to me
 6 of my own personal knowledge, and if called upon to testify thereto, I could and would
 7 competently do so.

8 2. This declaration is submitted in support of AIG Property Casualty
 9 Company’s *Ex Parte* Application for Protective Order re: Partially Redacted Insurance
 10 Policies.

11 3. On June 26, 2015, AIG Property filed its Complaint in this action seeking
 12 a judicial determination of the respective rights of AIG Property, William H. Cosby, Jr.
 13 (“Cosby”) and Janice Dickinson (“Dickinson”) with respect to the question of coverage
 14 under the AIG Property policies issued to Cosby for his alleged liability to Dickinson as
 15 asserted in the action entitled *Janice Dickinson v. William H. Cosby, Jr.*, Los Angeles
 16 County Superior Court Case No. BC580909.

17 4. Attached to the Complaint in this action are three AIG Property insurance
 18 policies: homeowners policy no. PCG 0006004261 (the “Massachusetts Policy”),
 19 homeowners policy no. PCG 0006004359 (the “California Policy”) and personal excess
 20 liability policy no. PCG 0006235889 (“PEL Policy”) (collectively “The Policies”).

21 5. Certain portions of The Policies, consisting only of property locations,
 22 vehicle information and premiums, have been redacted from the copies attached as
 23 exhibits to the Complaint in order to protect the privacy of Cosby in the redacted
 24 information.

25 6. On June 26, 2015, Declarant provided a copy of AIG Property’s complaint
 26 to counsel for Dickinson and Cosby, along with The Policies as redacted exhibits, the
 27 civil cover sheet, a notice of interested parties the summons and a waiver of service
 28 request for each counsel’s respective client.

1 7. On June 29, 2015, Declarant received a response from Jivaka Candappa,
 2 counsel for Ms. Dickinson, informing Declarant that Mr. Candappa would execute the
 3 waiver of service of summons and mail it to Declarant's office that week. Mr.
 4 Candappa also requested unredacted copies of The Policies. Attached hereto as Exhibit
 5 "A" is a true and correct copy of Mr. Candappa's correspondence with Declarant.

6 8. On June 30, 2015, Nadia Taghizadeh, also counsel for Ms. Dickinson,
 7 executed the waiver of service of summons through email. Attached hereto as Exhibit
 8 "B" is a true and correct copy of Ms. Taghizadeh's email and attached execution of
 9 waiver of summons.

10 9. On June 29, 2015, Declarant contacted Robert P. LoBue and Martin D.
 11 Singer, whom Declarant understands from prior correspondence would be counsel for
 12 Mr. Cosby, and solicited their position as his counsel regarding the redacted
 13 information.

14 10. On June 30, 2015, Mr. LoBue requested the continued redaction of the
 15 information in The Policies and objected to disclosure of redacted materials to Ms.
 16 Dickinson and her counsel. In addition, Mr. LoBue indicated that he would execute a
 17 waiver of service. Attached hereto as Exhibit "C" is a true and correct copy of Mr.
 18 LoBue's correspondence conveying the request and objection.

19 11. On June 30, 2015, Declarant advised Mr. Candappa that Cosby's counsel
 20 had informed Declarant's office regarding his client's objection to production of
 21 unredacted policies.

22 12. On June 30, 2015, Mr. Candappa responded, informing Declarant that
 23 discovery had commenced in the underlying civil case in Los Angeles Superior Court,
 24 and that Mr. Candappa could (and would) issue subpoenas in that case. Attached
 25 hereto as Exhibit "D" is a true and correct copy of Declarant's correspondence with Mr.
 26 Candappa.

27 13. On July 1, 2015, Declarant contacted counsel for Cosby and Dickinson
 28 and requested a conference call regarding a proposed *Ex Parte* Application for a

1 protective order authorizing the continued redaction of property locations, vehicle
 2 identification and premiums from The Policies.

3 14. Mr. Candappa proposed 10:00 AM PDT on July 2, 2015, for a conference
 4 call between counsel for the parties.

5 15. Through email, Mr. LoBue, Mr. Candappa and Declarant arranged a joint
 6 conference call regarding the issue of the disclosure of the redacted information and a
 7 proposed *Ex Parte* Application.

8 16. In Mr. LoBue's confirmation of the joint conference call, he stated that
 9 Defendant Cosby consents to and joins in this Application. Attached hereto as Exhibit
 10 "E" is a true and correct copy of the correspondence between Mr. Candappa, Mr.
 11 LoBue and Declarant coordinating our conference. Attached hereto as Exhibit "F" is a
 12 true and correct copy of the correspondence from Declarant to Mr. Candappa and Mr.
 13 LoBue correcting clerical errors in the initial email.

14 17. On July 2, 2015 at 10 AM PDT, Declarant along with Mr. LoBue
 15 attempted to confer with Mr. Candappa via the previously arranged telephone
 16 conference call to discuss the issue of the disclosure of the information redacted from
 17 The Policies and a possible *Ex Parte* Application. Mr. Candappa did not join in the call
 18 despite the prior arrangement. However, during that call, Mr. LoBue informed
 19 Declarant that Cosby consented to and wished to join in the proposed Application.

20 18. On July 2, 2015, Declarant proposed a follow up call for 12:30 PM PDT,
 21 in an attempt to confer with Mr. Candappa and Mr. LoBue.

22 19. The July 2, 2015, 12:30 p.m. PDT call went forward as scheduled. At the
 23 beginning of that call, Declarant advised Mr. LoBue and Mr. Candappa that its purpose
 24 was to discuss the possibility of this *Ex Parte* Application, and to hopefully resolve the
 25 issue of the partially redacted policies. Mr. LoBue stated that he believed the
 26 redactions were proper and indeed he believed that even more of the information could
 27 or should have been redacted to protect the privacy of Cosby. Mr. LoBue stated that he
 28 believed the redactions consisted of information of a personal nature to Cosby, and that

1 none of the redactions have anything to do with the substance of this action.

2 20. During the call, Mr. Candappa stated that prior to the call, he had only
 3 spent about fifteen (15) minutes reviewing AIG Property's complaint, and only three
 4 (3) minutes reviewing The Policies. From that review, Mr. Candappa believed that
 5 there was important information regarding named insureds redacted from The Policies.
 6 In particular, Mr. Candappa stated that he believed that the redaction of the words
 7 following "1500" and preceding "LLC" from the name of the insured covered by the
 8 California Policy may have included redaction of named insureds who were members
 9 of the LLC. After discussion, declarant explained that there were no members of the
 10 LLC listed in the California Policy, and that as alleged in the Complaint, the only
 11 redactions were of property locations, the identity of vehicles and premiums and that
 12 the word between the "1500" and the "LLC" was the street address of the property
 13 covered thereby and consequently was redacted.

14 21. During the discussion, Mr. LoBue explained that neither he nor any other
 15 attorney had yet appeared as counsel of record for Cosby in this action, but that he was
 16 appearing for the conference as a courtesy based on his general representation of
 17 Cosby. In response, Mr. Candappa asked why Mr. LoBue was included in the telephone
 18 conference and objected to Mr. LoBue's participation as Mr. LoBue had not yet
 19 appeared as counsel of record. In response, Mr. LoBue abruptly hung up.

20 22. After hanging up, Mr. LoBue separately emailed Declarant, noting his
 21 constraint in the call as well as the fact that Mr. Candappa had also stated in the course
 22 of the call that Mr. Candappa was not yet counsel of record in this action. Attached
 23 hereto as Exhibit "G" is a true and correct copy of Mr. LoBue's email to Declarant .

24 23. After Mr. LoBue exited the call, Mr. Candappa and Declarant continued
 25 the conversation. During that discussion, Declarant asked Mr. Candappa if he would be
 26 willing to stipulate that the redactions in The Policies could remain without disclosure
 27 until 10 days after all parties had made an appearance in this action.

28 24. Mr. Candappa responded by stating that the only stipulation he would

1 agree to would be that redactions could be protected from public view, but that he
2 wanted access to the redactions on behalf of his client.

3 25. As Mr. Candappa would not agree to a stipulation, Declarant asked Mr.
4 Candappa if he would oppose this *ex parte* application.

5 26. Mr. Candappa expressed that he would not file an opposition or otherwise
6 oppose this *Ex Parte* Application, and wished to clarify that it was unrelated to any
7 substantive reason.

8 27. Declarant asked Mr. Candappa if there was any immediate need for the
9 redacted information on behalf of his client. Mr. Candappa did not identify any such
10 need.

11 28. On July 6, 2015, Mr. Candappa, Ms. Bloom, Ms. Taghizadeh, and Mr.
12 LoBue were provided with courtesy drafts of this *ex parte* application and supporting
13 documents via e-mail, and informed of the procedures of ¶ 12 of this Court's Standing
14 Order Re Newly Assigned Cases.

15 29. On July 7, 2015, Mr. Candappa, Ms. Bloom, Ms. Taghizadeh, and Mr.
16 LoBue were served with this *Ex Parte* Application and supporting documents via e-
17 mail, pursuant to ¶ 12 of this Court's Standing Order Re Newly Assigned Cases.

18 30. AIG Property, joined by Cosby, now seeks this *ex parte* application for
19 protective order.

20 I declare under penalty of perjury under the laws of the United States that the
21 foregoing is true and correct. Executed on July 7, 2015 at Fresno, California.

/s/ James P. Wagoner

James P. Wagoner

3487077.1

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF FRESNO

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Fresno, State of California. My business address is 7647 North Fresno Street, Fresno, CA 93720.

On July 7, 2015, I served true copies of the following document(s) described as **DECLARATION OF JAMES P. WAGONER IN SUPPORT OF AIG PROPERTY CASUALTY COMPANY'S EX PARTE APPLICATION FOR PROTECTIVE ORDER** on the interested parties in this action as follows:

7 Robert P. LoBue
8 Patterson Belknap Webb & Tyler LLP
1133 Avenue of the Americas
9 New York, NY 10036-6710
10 Telephone: (212) 336-2596
Email: rplobue@pbwt.com

Represents Defendant,
WILLIAM H. COSBY

11 Lisa Bloom
Jivaka Candappa

Attorneys for Plaintiff,
JANICE DICKINSON

12 THE BLOOM FIRM
13 20700 Ventura Blvd., Suite 301
14 Woodland Hills, CA 91364
15 Telephone: (818) 914-7314
Facsimile: (866) 852-5666
Email: lisa@thebloomfirm.com
jiyaka@thebloomfirm.com

17 **BY ELECTRONIC SERVICE (E-MAIL):** Based on a court order or an
18 agreement of the parties to accept electronic service, my electronic service address
19 service is christina.torres@mccormickbarstow.com, and I caused the document(s) to be
20 sent to the persons at the electronic service address(es) listed in the Service List. The
document(s) were transmitted at ____ a.m./p.m. I did not receive, within a reasonable
time after the transmission, any electronic message or other indication that the
transmission was unsuccessful.

21 **BY OVERNIGHT DELIVERY:** I enclosed said document(s) in an envelope or
22 package provided by the overnight service carrier and addressed to the persons at the
23 addresses listed in the Service List. I placed the envelope or package for collection and
overnight delivery at an office or a regularly utilized drop box of the overnight service
carrier or delivered such document(s) to a courier or driver authorized by the overnight
service carrier to receive documents.

24 I declare under penalty of perjury under the laws of the United States of America
25 that the foregoing is true and correct and that I am employed in the office of a member
of the bar of this Court at whose direction the service was made.

1 Executed on July 7, 2015, at Fresno, California.
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Christina Torres
Christina Torres